रजिस्ट्री सं० डी० 221 REGISTERED No. D 221

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 33] नई दिल्ली, सोमवार, अगस्त 1, 1966/श्रावण 10, 1888 (शक)
No. 33] NEW DELHI, MONDAY, AUGUST 1, 1966/SRAVANA 10, 1888 (Saka)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 1st August, 1966:—

BILL No. XVI OF 1966

A Bill to consolidate and amend the law relating to unlawful possession of railway property.

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Railway Property (Unlawful Possession) Act, 1966.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires,—

23 of 1957.

(*a*) "Force" means the Railway Protection Force constituted under section 3 of the Railway Protection Force Act, 1957;

(*b*) "member of the Force" means a person appointed to the Force, other than a superior officer;

(*c*) "officer of the Force" means an officer of and above the rank of Assistant Sub-Inspector appointed to the Force and includes a superior officer;

(*d*) "railway property" includes any goods, money or valuable security or animal, belonging to, or in the charge or possession of, a railway administration;

(*e*) "superior officer" means any of the officers appointed under section 4 of the Railway Protection Force Act, 1957, and includes any other officer appointed by the Central Government as a superior officer of the Force; 23 of 1957.

(*f*) words and expressions used but not defined in this Act and defined in the Indian Railways Act, 1890, shall have the meanings respectively assigned to them under that Act. 9 of 1890.

Penalty for unlawful possession of railway property.

3. Whoever is found, or is proved to have been, in possession of any railway property reasonably suspected of having been stolen or unlawfully obtained shall, unless he proves that the railway property came into his possession lawfully, be punishable—

(*a*) for the first offence, with imprisonment for a term which may extend to five years, or with fine, or with both and in the absence of special and adequate reasons to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than one thousand rupees;

(*b*) for the second or a subsequent offence, with imprisonment for a term which may extend to five years and also with fine and in the absence of special and adequate reasons to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than two thousand rupees.

Punishment for connivance at offences.

4. Any owner or occupier of land or building, or any agent of such owner or occupier incharge of the management of that land or building, who wilfully connives at an offence against the provisions of this Act, shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

Offences under the Act not to be cognizable.

5. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under this Act shall not be cognizable. 5 of 1898.

Power to arrest without warrant.

6. Any superior officer or member of the Force may, without an order from a Magistrate and without a warrant, arrest any person who has been concerned in an offence punishable under this Act or against whom a reasonable suspicion exists of his having been so concerned.

Disposal of persons arrested.

7. Every person arrested for an offence punishable under this Act shall, if the arrest was made by a person other than an officer of the Force, be forwarded without delay to the nearest officer of the Force.

Inquiry how to be made against arrested persons.

8. (*1*) When any person is arrested by an officer of the Force for an offence punishable under this Act or is forwarded to him under section 7, he shall proceed to inquire into the charge against such person.

(*2*) For this purpose the officer of the Force may exercise the same powers and shall be subject to the same provisions as the officer incharge of a police-station may exercise and is subject to under the Code of Criminal Procedure, 1898, when investigating a cognizable case:

5 of 1898.

Provided that—

(*a*) if the officer of the Force is of opinion that there is sufficient evidence or reasonable ground of suspicion against the accused person, he shall either admit him to bail to appear before a Magistrate having jurisdiction in the case, or forward him in custody to such Magistrate;

(*b*) if it appears to the officer of the Force that there is not sufficient evidence or reasonable ground of suspicion against the accused person, he shall release the accused person on his executing a bond, with or without sureties as the officer of the Force may direct, to appear, if and when so required before the Magistrate having jurisdiction, and shall make a full report of all the particulars of the case to his official superior.

Power to summon persons to give evidence and produce documents.

9. (*1*) An officer of the Force shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document, or any other thing in any inquiry which such officer is making for any of the purposes of this Act.

(*2*) A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.

(3) All persons, so summoned, shall be bound to attend either in person or by an authorised agent as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and to produce such documents and other things as may be required:

Provided that the exemptions under sections 132 and 133 of the Code of Civil Procedure, 1908, shall be applicable to requisitions for attendance under this section. 5 of 1908.

(4) Every such inquiry as aforesaid, shall be deemed to be a "judicial proceeding" within the meaning of section 193 and section 228 of the Indian Penal Code. 45 of 1860.

Issue of search warrant.

10. (1) If an officer of the Force has reason to believe that any place is used for the deposit or sale of railway property which had been stolen or unlawfully obtained, he shall make an application to the Magistrate, having jurisdiction over the area in which that place is situate, for issue of a search warrant.

(2) The Magistrate to whom an application is made under sub-section (1), may, after such inquiry as he thinks necessary, by his warrant authorise any officer of the Force—

(a) to enter, with such assistance as may be required, such place;

(b) to search the same in the manner specified in the warrant;

(c) to take possession of any railway property therein found which he reasonably suspects to be stolen or unlawfully obtained; and

(d) to convey such railway property before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety.

Searches and arrests how to be made.

11. All searches and arrests made under this Act shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1898, relating respectively to searches and arrests made under that Code. 5 of 1898.

Officers required to assist.

12. All officers of Government and all village officers are hereby empowered and required to assist the superior officers and members of the Force in the enforcement of this Act.

Power of courts to order forfeiture of vehicles, etc.

13. Any court trying an offence punishable under this Act may order the forfeiture to Government of any property in respect of which the Court is satisfied that an offence under this Act has been committed and may also order the forfeiture of any receptacles, packages or coverings in which such property is contained, and the animals, vehicles, or other conveyances used in carrying the property.

Act to override other laws.

14. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Construction of references to laws not in force in Jammu and Kashmir.

15. Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

Repeal and savings.

51 of 1955. **16.** (*1*) The Railway Stores (Unlawful Possession) Act, 1955, is hereby repealed.

(*2*) Nothing contained in this Act shall apply to offences punishable under the Act hereby repealed and such offences may be investigated and tried as if this Act had not been passed.

(*3*) The mention of particular matters in sub-section (*2*) shall not be held to prejudice or affect the general application of section

10 of 1897. 6 of the General Clauses Act, 1897, with regard to the effect of repeals.

STATEMENT OF OBJECTS AND REASONS

With the increase in the quantum of goods traffic on the Railways, incidence of thefts and pilferages has been going up. This will be evident from the fact that the claims bill which was Rs. 29 millions in 1953-54 rose to Rs. 42 millions in 1963-64. The amendment of the Indian Railways Act in 1961 has further cast greater responsibilities on Railways who have now to pay claims for losses, destruction, damages or deterioration or undelivered goods tendered for despatch, unless it is proved that such losses, etc., are due to an act of God. This additional responsibility, therefore, now demands that more effective steps need be taken to prevent heavy losses on the Railways and thereby to reduce claims bill.

2. At present, offences against Railway property are being dealt with under the Railway Stores (Unlawful Possession) Act, 1955, but this Act has been found, by experience, to be ineffective in tackling with the enormity of the problems of theft and pilferages on Railways. As it is, this Act makes unlawful possession of Railway Stores an offence, but it is only applicable to unlawful possession of Railway property owned by the Railways, and does not cover the offences relating to goods and parcels entrusted to the Railways for transport.

3. Further, the offences under this Act are investigated and enquired into by the local police in accordance with the provisions of the Code of Criminal Procedure, 1898. It has been observed that the two Agencies, *i.e.* the Government Railway Police and the Railway Protection Force, which are at present provided to deal with crimes on Railways find themselves handicapped, for different reasons, in effectively dealing with the problem of theft and pilferage of Railway property. The Railways are spread out over a large part of the country and property, etc., entrusted to them is carried from one part to another usually crossing boundaries of different States. The jurisdiction of the State Police being restricted to the State boundary only, it becomes difficult at times for the police to make thorough and fruitful investigation into offences relating to Railway property. Besides, investigation of cases in respect of Railway property also requires a specialized knowledge of Railway working. The Railway Protection Force, on the other hand, are

not at present equipped with requisite powers of investigation and prosecution, with the result that whatever action they take in respect of prevention, etc., is taken just in aid of the State Police who conduct investigation and prosecution, etc. Due to this fact of two agencies being responsible for achieving the same object, the machinery has not proved as effective as it ought to have.

4. It is, therefore, proposed to replace the Railway Stores (Unlawful Possession) Act, 1955 by a more comprehensive Act so as to bring within its ambit the unlawful possession of goods entrusted to the Railways as common carriers and to make the punishment for such offences more deterrent. It is also proposed to invest powers of investigation and prosecution of offences relating to Railway property in the Railway Protection Force in the same manner as in the Excise and Customs.

The Bill seeks to give effect to the above proposals.

NEW DELHI; S. K. PATIL.
The 19th July, 1966.

FINANCIAL MEMORANDUM

As will appear from the Statement of Objects and Reasons annexed to the Bill, the object of the Bill is to repeal the existing Railway Stores (Unlawful Possession) Act, 1955, and to replace it by a new Act [Railway Property (Unlawful Possession) Act] investing powers of investigation and prosecution in the Railway Protection Force in respect of offences relating to Railway Property. The Railway Protection Force constituted under section 3 of the Railway Protection Force Act, 1957, is already in existence. The officers of the existing Force even now make enquiries, etc., into cases of thefts and pilferages of railway property. Under the proposed Act, the same officers will conduct investigation into offences mentioned in the Bill. Therefore, the additional expenditure will only be in respect of the pay and allowances for the staff required to man the Prosecuting Branch. It is estimated that the following staff will be required for each Railway Division for prosecution duties:—

1. Inspector Gr. I (Rs. 450—575)	....	One
2. Inspector Gr. II (Rs. 370—475)	....	One
3. S.I. Gr. I (Rs. 205—280)	....	One
4. A. S. I. (Rs. 110—170)	....	One
5. Head Rakshak (Rs. 80—110)	....	Two
6. Rakshak (Rs. 70—85)	....	Four
TOTAL	....	Ten

Based on this, the annual additional expenditure, as compared to the 1964-65, expenditure, on Railway Protection Force, will be as under:—

Name of the Rly.	No. of Divisions	The present annual cost	The addl. cost	Total
		Rs.	Rs.	Rs.
Central Rly.	7	94,27,724	1,52,670	95,80,394
Eastern Rly.	6	1,30,75,376	1,30,860	1,32,06,236
Northern Rly.	7	1,09,60,508	1,52,670	1,11,13,178
N. E. Rly.	5 (Zones)	57,87,453	1,09,050	58,96,503
N. F. Rly.	4	48,88,528	87,240	49,75,768
Southern Rly.	8	83,48,199	1,74,480	85,22,679
S.E. Rly.	9	87,52,831	1,96,290	89,49,121
Western Rly.	8	92,85,787	1,74,480	94,60,267
Total . . .	54	7,05,26,406	11,77,740	7,17,04,146

From the above, it will be observed that the additional expenditure will be to the tune of 1·67 per cent. of the present cost on the Railway Protection Force.

B. N. BANERJEE,
Secretary.

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1966.